Equality of Opportunity and Freedom from Discrimination

MHR Connections

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Elections Canada ordered to ensure accessible polling stations

Peter Hughes wanted to exercise his right to vote in a federal by-election. On 17, March 2008, however, due to inaccessibility at the St. Basil's Church polling station in Toronto, he had to resort to going down a set of stairs "on the seat of his pants" in order to cast his ballot. Mr. Hughes, who has a physical disability, complained to Elections Canada.

The Elections Canada response to his complaint was described as more dismissive than concerned and took no steps to address the lack of accessibility. Mr. Hughes subsequently faced the same flight of stairs in the General Election in October of 2008.

This time he took his complaint to the Canadian Human Rights Commission.

At a Canadian Human Rights Tribunal hearing, Mr. Hughes testified about crawling down the stairs and then the humiliation and the safety concerns he had of pushing his walker through the snow to exit the polling station through "a backdoor ramp that is used for freight and garbage."

The Canadian Human Rights Tribunal granted Interested Party status to the Council of Canadians with Disabilities (CCD), a human rights organization covering a wide spectrum of disabilities. CCD shared with the Tribunal its views on remedies that would benefit voters with disabilities in future elections.

In early February the Canadian Human Rights Tribunal agreed with Mr. Hughes and in a ground-breaking decision ordered national-wide remedies. "It is disappointing that in the disability rights/accessibility heightened time in which we find ourselves living as we enter the second decade of the 21st century, that Mr. Hughes would have had to experience the humiliation and indignities of those two voting events, followed by the tardy investigation, inaccurate conclusions and poor handling of his verbal and written complaints," the tribunal adjudicator Matthew G. Garfield wrote.

The Canadian Human Rights Tribunal ordered Elections Canada to "cease from situating polling stations in locations that do not provide barrier-free access". Mr. Hughes also received $10,000 in general damages.

Additionally, the Tribunal ordered Elections Canada to alter a number of its practices related to consultation, leasing, policies and guidelines, signage, and training. For example,

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THE MANITOBA HUMAN RIGHTS COMMISSION

LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

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The Rights Connection
by Yvonne Peters Vice-Chairperson

The right to vote is protected in the Canadian Charter of Rights and Freedoms and according to Human Rights Adjudicator Matthew D. Garfield, "It is a right and I would argue a responsibility or duty of citizens of this country." In the case of James Peter Hughes and Elections Canada, Adjudicator Garfield also wrote that there should be no hierarchy of citizenship when it comes to voting in Canada and no second class voters. And yet in 2008 Peter Hughes walked away from not one, but two voting experiences, thinking that his presence was at best unexpected and at worst, unwelcome. This experience took place in Toronto, Canada's largest city, at a polling station at St. Basil's Church.

The fact that a Canadian citizen confronted barriers when exercising his right to vote in this country is even more unbelievable considering that Mr. Hughes complained once verbally and a second time in writing and nothing was done to ensure his voting station was accessible.

As well, it is confounding that a letter of complaint sent to Elections Canada by Mr. Hughes, and correctly addressed, ended up in the hands of the wrong person who wrote back that the subject matter fell outside his jurisdiction.

It is difficult to explain why, in response to a Canadian Human Rights Complaint, an investigation by Elections Canada determined that the accessible door was open, when it was not. That entrance clearly had signs pointing to another door, which when opened revealed a stairway to the basement where voting was taking place.

It is misleading and careless to use the universal accessibility symbol on a voting card when the polling station locks its only accessible door.

And finally, it is interesting to note that Elections Canada had absolutely no trouble finding an alternate polling station, which is fully accessible and close by.

After all this, the most difficult aspect of this case is trying to understand the argument posed by Elections Canada Council that this is not a systemic issue, but rather "people not quite doing the right things under the system" problem. As Adjudicator Garfield pointed out, "The system is made of people." Agreed. Fortunately human rights legislation deals effectively with access cases.

Safe Harbour – A promise of equitable treatment

Three young Sikh men enter your premises and are looking at merchandise. Another customer says to you, "You better watch out for those three. They carry knives you know. Who knows what they might be up to?" You can see that one of the young men heard the comment. What do you do?

It is hoped that this decal will be displayed on offices and businesses and those in need will recognize it as designating a place of safety.

According to Faiza Hargaaya, a facilitator at a recent downtown workshop, you should let the young men know that you don't agree with the statement and speak in a neutral way to the customer who made the comment explaining that you do not agree with him. "You are not expected to solve the problem," says Ms Hargaaya, "and you are not expected to mediate or educate." If you become part of the Safe Harbour Program you are, however, "expected to assure the young men that they are welcome in your place of business," she says.

That is just one of the scenarios posed to participants at the Safe Harbour workshop facilitated by the Immigrant and Refugee Community Organization of Manitoba (IROM). The workshop is part of a new initiative called "Safe Harbour: Respect for All," which was launched in downtown Winnipeg earlier this month.

As another workshop facilitator Nadia Kidwai explained, "By displaying the Safe Harbour window decal or poster you are announcing to your community your respect for all cultures, ethnicities, religions, socio-economic backgrounds, family status, ages, abilities, genders and sexual orientations." She added that it is hoped that the symbol becomes widely known to those who are discriminated against. The symbol will then assure them that they are in a safe place.

Representatives from various organizations including the Royal Canadian Mounted Police, University of Winnipeg, the Manitoba Human Rights Commission, the Winnipeg Police Service, the Assiniboine Credit Union, and the West End Cultural Centre among others attended.

The Safe Harbour Initiative offers businesses and agencies the opportunity to participate in training workshops to raise awareness and education about the value of diversity. The program, which is funded and supported by Citizenship and Immigration Canada, began in British Columbia and has since expanded to Alberta, Nova Scotia and Manitoba.

Other advice offered to the participants included: be guided by what the person needing assistance says, diffuse rather than confront, safety comes first and understand that the biggest barrier for new immigrants is language.

The facilitators also suggested to ask yourself the following questions: what is the impact on the person, how do they feel, and what would make them feel less uneasy.

For more information regarding upcoming Safe Harbour Workshops, please contact Wanda Yamamoto at Welcome Place (wanday@miic.ca) or call 977-1000.

Safe Harbour is provincially coordinated by the Manitoba Interfaith immigrations Council Inc.

Safe Harbour locations commit to:

Equitable treatment: Treating all of their clients and/or customers in an equitable manner; if a concern is expressed regarding a lack of equitable treatment, staff members take this concern seriously and take steps to address the problem.

Providing a "Safe Harbour": Being a temporary and immediate safe place where someone who has experienced mistreatment will receive a helping hand such as a place to sit, a telephone to use, and information about how to seek further assistance.

Prepared employees: Preparing all employees to celebrate diversity, and assisting those who require a temporary refuge from discrimination.

International Women's Day
Monday, March 8, 2010
11:45 a.m. – 1:00 p.m.
In the Rotunda at the Manitoba Legislative Building
A light lunch will be served
Please RSVP by March 5, 2010
945-6281 or toll free 1-800-623-0234

Honourable Flora MacDonald speaks on Afghanistan
The Honourable Flora MacDonald will be speaking at The University of Winnipeg on Wednesday, March 17th, on her humanitarian work in Afghanistan, in a free public lecture.
Wednesday, March 17, 2010
6:30 p.m. to 8:00 p.m.
Convocation Hall, 2ND FLOOR, Wesley Hall,
The University of Winnipeg - 515 Portage Avenue
A small reception will follow featuring Afghan cuisine.

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Elections Canada has been ordered to revise "its standard lease for polling stations to include the requirement that the leased premises provide level access and are barrier-free".

The Tribunal also ordered Elections Canada to implement "a process for receiving, recording and processing verbal and written complaints about lack of accessibility." The number of complaints received about accessibility will be publicly reported via Elections Canada's CEO's post-election report to Parliament.

The following exchange took place during the human rights hearing when counsel for Elections Canada argued that there was no need to consider the situati Mr. Hughes faced was systemic.
COUNSEL for Elections Canada: "But this wasn't a case of what went wrong focused on the system. It's one where what went wrong focused on people not quite doing the right things under the system."
TRIBUNAL member Matthew D. Garfield: "But that is part of the system too. The system is made up of people."